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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/317,388	05/24/1999	JOSEPH D. SMITH	ELITE-001	9038

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EXAMINER

SMITH, SHEILA B

ART UNIT PAPER NUMBER

2685

DATE MAILED: 05/09/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/317,388

Applicant(s)

SMITH ET AL.

Examiner

Sheila B. Smith

Art Unit

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- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 10 recites the limitation "said monitoring device" in line 6. There is insufficient antecedent basis for this limitation in the claim.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1,2,4-10, 14-15, 18,20-21,23-32 and 47-51, rejected under 35 U.S.C. 102(e) as being anticipated by Gaukel (U. S. Patent Number 6,072,396).

***Regarding claims 1,2,4,8,9,10,12,14,15,18,20,21,23-26,28,32, 37,39,42,47-50,51-56,61,***

Gaukel discloses essentially all the claimed invention as set fourth in the instant application,

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further Gaukel discloses apparatus and method for continuous electronic monitoring and tracking of individuals. Additionally, Gaukel discloses a monitoring device (30), a microcontroller (36), a cellular phone (34) and modem (34), which reads on "pager and pager modem" a GPS (32) and cable (68) between monitoring device (30) and wristband (20), which reads on "interface between said monitoring device and target for communication signals relating to said target" as disclosed in column 14 lines 22-40 and as exhibited in figure 1.

***Regarding claims 5***, Gaukel discloses a monitoring device wherein said interface comprise one input (68), monitoring device (30) from target (20) and one output (68) from monitoring device (30) to target (20) see figure 1.

***Regarding claims 6, 27,29-31,44,45,66,67***, Gaukel discloses a target is a vehicle and interface communicates electrical signals relating to elements of said vehicle as disclosed in column 1 lines 29-32.

***Regarding claims 7,46***, Gaukel discloses a microcontroller is programmed in a low level language closely related to and architecture of said microcontroller as disclosed in column 3 lines 40-50.

***Regarding claims 32,51***, Gaukel discloses a monitoring a plurality of targets, computer network server, database, a pager network and a plurality of wireless communication units as disclosed in column 9 lines 14-30.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3,11,16,17,19,22,33-36,38,40,41,43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaukel (U. S. Patent Number 6,072,396).

***Regarding claims 3,33-36,38,40,41,43,57-59,63,64*** Gaukel discloses essentially all the claimed invention as set fourth in the instant application. However, Gaukel fails to specifically teach that a pager modem and microcontroller operable for sending email messages over pager network.

However, the examiner takes official notice of the fact that it is well known to us a modem for sending email messages over a network.

Therefore, it would have been obvious to one of ordinary skill at the time of the invention to modify the apparatus and method for continuous electronic monitoring and tracking of individuals to us a modem for sending email messages over a network, for the purpose of communicating with the target.

***Regarding claims 11,16,17,19,22***, Gaukel discloses essentially all the claimed invention as set fourth in the instant application. However, Gaukel fails to specifically teach that a computer having an internet connection, one or more computers being operable for communication over said internet and through said pager network to detect said target signal.

However, the examiner takes official notice of the fact that it is well known to us a computer to communication over said internet and through networks.

Therefore, it would have been obvious to one of ordinary skill at the time of the invention to modify the apparatus and method for continuous electronic monitoring and tracking of individuals to use a computer to communicate over said internet and through networks, for the purpose of utilizing the wireless network for communicating with the target.

***Citation of Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

***Bird*** (U. S. Patent Number 5,418,537) discloses location of missing vehicles;

***Janky et al.*** (U. S. Patent Number 5,777,580) discloses vehicle location system;

***Allen, Jr.*** (U. S. Patent Number 6,297,768) discloses triggerable remote controller;

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheila B. Smith whose telephone number is (703)305-0104. The examiner can normally be reached on Monday-Thursday 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on 703-308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-6306 for regular communications and (703)308-6296 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.

S. Smith  
May 6, 2002

  
**EDWARD F. URBAN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**